

App. No.: 10/064508
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REMARKS

The indicated allowability of claims 6, 9 and 17-20 subject to their being rewritten in independent form and if the potential double patenting rejection is overcome is noted with appreciation. These claims have not been presently amended, for reasons which will become apparent from the following comments.

Turning first to the possible double patenting rejection, the Examiner is advised that the noted co-pending has been allowed and the Issue Fee will be paid. It is submitted, however that there is a patentable distinction between the two cases. The other case may be considered generic in that it addresses the broad problem of excessive engine acceleration or deceleration. This case and its claims are directed to the protection of a transmission system from those excessive conditions. The claims have been amended where required to further emphasize that. It is submitted that if both features were claimed in the same case, restriction would be proper and quite possible. That is why separate cases were filed both here and abroad. Therefore reconsideration of this point is respectfully requested.

The claims have also been amended to address the Examiner's well taken 112 rejection.

Turning now to the art rejections all based on Iwata et al either alone or in combination, as the Examiner notes this patent is directed to a control for wheel slip. This is a condition that would occur primarily due to traction problems and not one where transmission system damage could occur. Although in retrospect, the solution of possible transmission system protection might appear obvious from Iwata et al, the degree of loading is quite different. Therefore one having ordinary skill in the art would be unlikely to look to that field for a solution of the specific problem.

In view of the foregoing, the Examiner is most respectfully requested to reconsider her positions and favorably act on this case.

Respectfully submitted:



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